71-1481

Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No.

GRANT PARISH POLICE JURY, et al suit in re

HERMAN COLLINS, W. A. CAPPS, BILLY P. CHANDLER, CHARLES E. EVANS, VIRGIL CHEVEALLIER, named defendants,

Petitioners,

versus

GEORGE W. AVERY and JOHN L. GENTRY,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Counsel for Petitioners

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Petitioners pray that a Writ of Certiorari issue to review the Judgment of the United States Court of Appeals for the Fifth Circuit entered in the captioned case on April 17, 1972.

I. OPINIONS BELOW

None rendered either in the original Judgment and in the rehearing.

II. JURISDICTION

The date of the Judgment of the United States Court of Appeals for the Fifth Circuit is March 21, 1972, in

which the lower Court's Judgment was affirmed. On petition for rehearing, the same was denied on April 17, 1972. Jurisdiction is conferred upon this Court to review the Judgment of the United States Court of Appeals for the Fifth Circuit by Writ of Certiorari by 28 U.S.C.A., § 1254.

III. QUESTIONS PRESENTED FOR REVIEW.

1. Whether the District Court had any legal right to render Judgment adverse to petitioners on December 30, 1971, when the matter had been appealed and the same perfected September 29, 1971.

2. Whether the District Court showed disregard for the doctrine of reasonable time by mandating seven days for the Grant Parish School Board defendants to present a plan for voting reapportionment with no notice to the five defendants, representing a majority in number and vote as members of the School Board and who were individually cited as defendants. The District Attorney is the statutory attorney for the Police Jury and the School Board. Petitioners are individually named as defendants — members of the School Board.

3. Whether the District Court should have shown judicial interest when in open Court one of the plaintiffs, George W. Avery, submitted a plan, in harmony with that of petitioners, thus disagreeing with the Dis-

trict Attorney as well as with co-plaintiff John L. Gentry.

4. Whether the Fifth Circuit should have shown judicial interest when the remaining plaintiff, John L. Gentry, upon information believed to be valid, notified the Fifth Circuit that he knew nothing of the appeal from the District Court, had not authorized same and allegedly agreed with the plan of petitioners.

5. Whether the District Court can disregard a homogeneous plan consonant with the Supreme Court's "one-man/one-vote" rule in favor of its own plan that performs a disservice to the citizens concerned.

6. Whether the District Court can negotiate with the District Attorney and the attorneys for the plaintiffs and not take into consideration the named defendants, petitioners herein.

7. Whether the arbitrary speed and haste and ruling of the District Court should not have been recognized as such by the Fifth Circuit and corrected.

8. Whether the Fifth Circuit performs a juridical duty is merely decreeing affirmance of the District Court with no reasons given upon which a proper appeal or move can be made.

9. Whether the Fifth Circuit has a juridical obligation in denying a motion for a rehearing to set forth its reasons.

10. Whether the Fifth Circuit by its silence is performing a service to the people of our country in failing to take note, judicially, of serious and grievous flaws and defects originally launched in the District Court and aggravated by ignoring same in said Fifth Circuit.

11. Whether the concept of "Justice and the Law" has meaning to our citizens by the abrupt terminology of "confirmed" or "denied" without any analysis or showing to all parties, that the issues have been studied and analyzed by the court.

CONCLUSION

Petitioners know that the Federal Courts have cut through the morass of political skullduggery in the past to make clean the rights of our citizens to have their day in Court respected. That when the Federal Courts in May of 1972 can vacate an election that was held in 1969, the Federal Courts can re-ingrain in the public the concept of expecting the Federal Judiciary to right the wrongs necessitating original court action, then this Honorable Court can, sua sponte, order and direct the vacating of any school board election and direct that same be held forthwith in accordance with the plan of petitioners, which appears to have been concurred in by the two original plaintiffs. Or in the al-

ternative direct the Fifth Circuit to state its opinion for its judgment so that an intelligent approach can be had. The price of civilization demands this juridical courtesy. The arguments put forth in petitioners brief to the Fifth Circuit remains valid and is made part hereof by reference. Petitioners' plan is stated on page 4 of said brief.

Respectfully submitted,

Irving Ward-Steinman
1128 Fifth Street [Box 188]
Alexandria, Louisiana 71301
Counsel for Petitioners

CERTIFICATE OF COUNSEL

I CERTIFY that a copy of the herein petition for Writ of Certiorari has been duly mailed to Sam Wells, District Attorney, Colfax, Louisiana 71417, and to Mr. Camille Gravel and Mr. James J. Brady, Box 1792, Alexandria, Louisiana, 71301, by mail with sufficient postage thereon to insure delivery.

This ____ day of May, A.D., 1972.

Irving Ward-Steinman

APPENDIX A

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

OFFICE OF THE CLERK
April 17, 1972

TO ALL PARTIES LISTED BELOW

Re: No. 71-2797 — George W. Avery
and John L. Gentry vs. Grant
Parish Police Jury, et al

Gentleman:

You are hereby advised that the Court has today entered an order denying the Petition ( ) for Rehearing in the above case. No opinion was rendered in connection therewith. See Rule 41, Federal Rules of Appellate Procedure for issuance and stay of the mandate.

Very truly yours,

EDWARD W. WADSWORTH,
Clerk

(Signed) ALVIS M. WINCHESTER
Deputy Clerk

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 71-2797

GEORGE W. AVERY and JOHN L. GENTRY,
Plaintiffs-Appellees,
versus

GRANT PARISH POLICE JURY, ET AL.,
Defendants-Appellants.

Appeal from the United States District Court for the Western District of Louisiana

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(March 21, 1972)

Before RIVES, COLEMAN and DYER,
Circuit Judges.

PER CURIAM: After oral argument, the judgment of the District Court is AFFIRMED. See Local Rule 21.[1]

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[1]See NLRB v. Amalgamated Clothing Workers of America, 5 Cir., 1970, 430 F.2d 966.